



[4830-01-p]

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-111753-12]

RIN 1545-BL24

Debt That Is a Position in Personal Property That Is Part of a Straddle

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearings.

SUMMARY: This document contains proposed regulations relating to the application of the straddle rules to a debt instrument. The proposed regulations clarify that a taxpayer's obligation under a debt instrument can be a position in personal property that is part of a straddle. The proposed regulations primarily affect taxpayers that issue debt instruments that provide for one or more payments that reference the value of personal property or a position in personal property. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by **[INSERT DATE 60 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**.

Requests to speak and outlines of topics to be discussed at the public hearing scheduled for January 15, 2014, must be received by **[INSERT DATE 60 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-111753-12), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-111753-12), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at www.regulations.gov (IRS REG-111753-12).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Mary Brewer, (202) 622-4695; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing, Oluwafunmilayo Taylor, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

BACKGROUND AND EXPLANATION OF PROVISIONS

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 1092(d). The temporary regulations provide that if a taxpayer is the obligor under a debt instrument one or more payments on which are linked to the value of personal property or a position with respect to personal property, then the taxpayer's obligation under the debt instrument is a position with respect to personal property and may be part of a straddle. The temporary regulations apply to straddles established on or after January 17, 2001. The text of the temporary regulations also serves as the text of these proposed regulations and is identical to the text of regulations originally proposed under REG-105801-00.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in the preamble under the “Addresses” heading. The Treasury Department and the IRS welcome comments on this proposed regulation. All comments that are submitted by the public will be available at for public inspection and copying at www.regulations.gov upon request.

A public hearing has been scheduled for January 15, 2014, beginning at 10 a.m. in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted

beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the “**FOR FURTHER INFORMATION CONTACT**” section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies by **[INSERT DATE 60 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Mary Brewer, Office of Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.1092(d)-1 also issued under 26 U.S.C. 1092(b)(1). * * *

Par. 2. Section 1.1092(d)-1 is amended by revising paragraphs (d) and (e) to read as follows:

§1.1092(d)-1 Definitions and special rules.

* * * * *

(d) [The text of the proposed amendment to §1.1092(d)-1(d) is the same as the text for §1.1092(d)-1T(d) published elsewhere in this issue of the **Federal Register**].

(e) [The text of the proposed amendment to §1.1092(d)-1(e) is the same as the text for §1.1092(d)-1T(e) published elsewhere in this issue of the **Federal Register**].

Beth Tucker

Deputy Commissioner for Operations Support.